

ready for market; and that by a survey which had been made, laying down the boundaries, as admitted, between the lands of this defendant and the plaintiff, it clearly appeared, that the defendant had committed no manner of waste or trespass whatever on the lands of the plaintiff. Upon this answer, the defendant gave notice of a motion to dissolve the injunction.

BLAND, C., 3d October, 1831.—The motion to dissolve the injunction standing ready for hearing, and having been submitted on notes by the solicitors of the parties, the proceedings were read and considered.

It is not intimated in this bill, that the plaintiff had instituted a suit of any kind which was then depending, to establish his right to the lands upon which the alleged wrong had been committed. It is therefore quite clear, that this cannot be considered as one of those cases in which an injunction is granted to stay waste and preserve the property pending a suit to try the title, or to ascertain the true location of the land to which the alleged injury has been done. And as it is not stated, that there is any privity of title or estate between these parties, this can only be regarded as a mere injunction to stay trespass alleged to have been committed by a stranger; and hence, according to the well settled course of this Court, in relation to cases of this kind, where the defendant, as in this instance, positively denies all the facts of the imputed wrong and injury as charged in the bill, the injunction must be dissolved. *Duval v. Waters*, 1 *Bland*, 569.

Whereupon it is ordered, that the injunction heretofore granted in this case, be and the same is hereby annulled and dissolved.

#### \*THE BELLONA COMPANY'S CASE.

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MOTION TO DISSOLVE INJUNCTION.—EXTINGUISHMENT OF CORPORATION.—  
NUISANCE.—EMINENT DOMAIN.

On a motion to dissolve an injunction no *ex parte* affidavits can be read.

A motion to dissolve an injunction is confined to the consideration of the statements of the bill, and the answer responsive thereto. (a)

A corporation constituted of many stockholders may be virtually extinguished by all the stock being owned by one.

A gunpowder manufactory not a nuisance, because of the loose manner in which the edifices have been constructed.

The clause of an Act of incorporation which gives the power of eminent domain to be construed strictly, but fairly.

(a) Cited in *Sackett v. Hill*, 2 Mich. 183; *Coleman v. Hudspetter*, 49 Miss. 566. See *Salmon v. Clagett*, ante, 125, note.